



OHMVR COMMISSION MEETING Folsom, CA 95630

October 28, 2015

STAFF REPORT: Clear Creek National Recreation Area and Conservation Act

STAFF: Dan Canfield, OHMVR Division Planning Manager

SUBJECT: Proposal to draft a letter in support of the Clear Creek National Recreation Area and Conservation Act

Summary

Congressman Sam Farr (U.S Representative, California's 20th Congressional District) introduced the Clear Creek National Recreation Area and Conservation Act (HR 1838) on April 16, 2015. The bill establishes the Clear Creek National Recreation Area (CCNRA) in Fresno and San Benito Counties and designates a new *Joaquin Rocks Wilderness* to be managed by the Bureau of Land Management (BLM). The bill is cosponsored by Congressman David Valadao (U.S Representative, California's 21st Congressional District) and Congressman Jeff Denham (U.S Representative, California's 10th Congressional District).

HR 1838 would direct the BLM to develop a map and legal description of the CCNRA and manage the CCNRA to prioritize environmentally responsible off-highway vehicle (OHV) recreation and also facilitate access to hunting, hiking, and rockhounding, serving to reopen the Clear Creek Management Area (CCMA) which has been closed to OHV recreation since 2008.

This bill also designates several creek segments as Wild and Scenic Rivers, totaling approximately 30 miles of creek segments in the vicinity of the CCMA.

The complete text of HR 1838 can be found at :

<https://www.congress.gov/bill/114th-congress/house-bill/1838/text>

HR 1838 has been referred to the House Committee on Natural Resources – Subcommittee on Federal lands.

Discussion

The CCMA was a popular OHV recreation area administered by the Hollister Field Office of the BLM. Located in the Diablo Mountains of Central California, the CCMA spans parts of southern San Benito County and western Fresno County (see Attachment 1). The CCMA is comprised of approximately 75,600 acres. In 1984, the BLM designated approximately 30,000 acres within the CCMA as the Serpentine Area

of Critical Environmental Concern (ACEC). The majority of the CCMA OHV routes were within the Serpentine ACEC.

In May 2008, the BLM temporarily closed the CCMA based on health concerns related to naturally occurring asbestos (NOA) identified in a 2008 study conducted by the Region 9 office of the U.S. Environmental Protection Agency (EPA Region 9). The EPA Region 9 findings were presented in a May 2008 risk assessment study entitled, "Clear Creek Management Area Asbestos Exposure and Human Health Risk Assessment." The EPA Region 9 study stated that the NOA inhalation health risks to individuals participating in various recreational activities, including OHV recreation, were "of concern."

On February 12, 2014, the BLM Hollister Field Office published the CCMA Resource Management Plan (RMP) Record of Decision (ROD).

The CCMA RMP ROD eliminated OHV recreation from the 30,000 acre Serpentine ACEC within the CCMA. Highway licensed vehicles are allowed in the Serpentine ACEC with travel restricted to a designated vehicle touring route. Public access to the Serpentine ACEC is allowed by permit only with vehicle touring limited to five days per year and pedestrian access limited to twelve days per year. The ROD does provide limited OHV recreation opportunities for ATVs and ROVs in portions of the CCMA outside the Serpentine ACEC.

At the February 28, 2014, OHMVR Commission meeting, the Commission voted unanimously to submit a letter to the BLM appealing the CCMA RMP ROD. On March 13, 2014, the Commission appeal letter was submitted to the BLM (see Attachment 2). The appeal was not successful.

On April 3, 2014, an OHMVR Commission Ad Hoc Committee (Pérez and Cabral) visited the CCMA and toured the Serpentine ACEC as well as portions of CCMA outside the Serpentine ACEC.

Last month, on September 22, 2015, the County of San Benito Board of Supervisors sent a letter to the House Committee on Natural Resources supporting HR 1838 and requesting a hearing in regards to HR 1838 (see Attachment 3). The letter also indicates the OHMVR Division is conducting additional independent research on the NOA issue and the findings of those efforts may assist in future management efforts.

Commission Action

The Commission may:

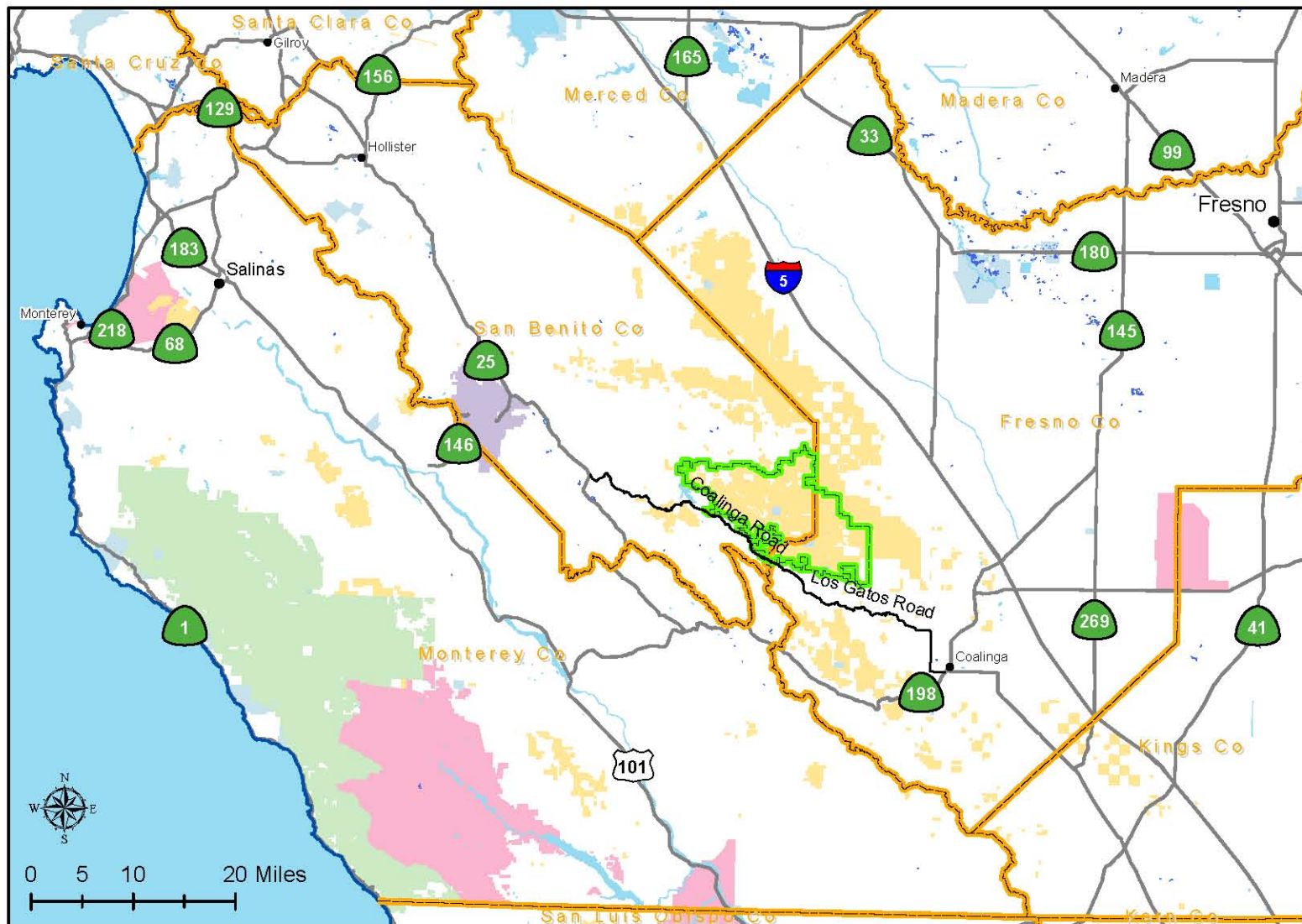
1. Authorize the Clear Creek Management Area Ad Hoc Committee (Pérez and Cabral) to draft a letter in support of HR 1838
2. Take no action

Attachments

Attachment 1 – CCMA Regional Location Map

Attachment 2 – March 2014 OHMVR Commission Appeal Letter

Attachment 3 – September 2015 County of San Benito Board of Supervisors Letter



Map 1 Legend

— CCMA boundary

Land Status

AGENCY

Bureau of Land Management

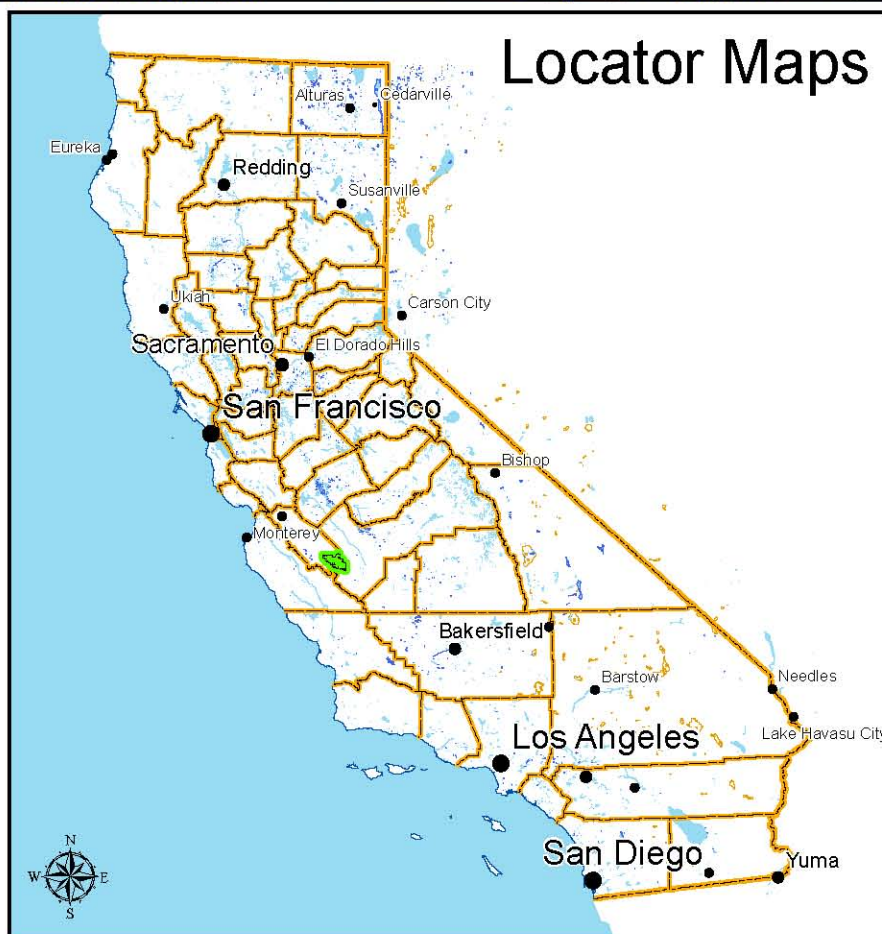
US Forest Service

National Park Service

Military

State

Locator Maps



US Department of the Interior
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Hollister, CA 95023
(831) 630-5000
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Date Prepared: 12/07/2011
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OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION

COMMISSION MEMBERS

Paul Slavik, *Chair*
Diana Pérez, *Vice Chair*
Ted Cabral
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Kevin Murphy
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March 13, 2014

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Subject: Appeal of BLM Clear Creek Resource Management Plan Record of Decision

Agency/Docket Number:
L1610000.PQ0000/LLCAC09000
Document Number:
2014-02799

NOTICE OF APPEAL

This letter should serve as official Notice of Appeal pursuant to Title 43: Code of Federal Regulations (CFR), Part 4, for the Bureau of Land Management (BLM) Clear Creek Management Area (CCMA) Resources Management Plan (RMP) Record of Decision (ROD).

California State Parks, Off-Highway Motor Vehicle Recreation (OHMVR) Commission, at its February 28, 2014 meeting, received a report from the BLM Central California District Manager on the CCMA RMP/ROD. The OHMVR Commission subsequently unanimously voted to appeal the BLM CCMA ROD.

STATEMENT OF STANDING

Pursuant to Title 43 CFR, 4.410(b) The OHMVR Commission has standing to issue this appeal:

§4.410 Who may appeal.

(b) A party to a case, as set forth in paragraph (a) of this section, is one who has taken action that is the subject of the decision on appeal, is the object of that decision, or has otherwise participated in the process leading to the decision under appeal, e.g., by filing a mining claim or application for use of public lands, by commenting on an environmental document, or by filing a protest to a proposed action.

The OHMVR Commission commented on the CCMA RMP Environmental Impact Statement (EIS) and filed a protest against the proposed CCMA RMP thus establishing standing to appeal. The EIS comment letter and RMP protest letter are attached.

STATEMENT OF REASONS

The OHMVR Commission appeals the TRANS-E3.5. Implementation Decision from the CCMA ROD.

1. **TRANS-E3.5. Implementation Decision:** Vehicle use in the Tucker, Condon, Cantua, and San Benito River Zones would be limited to highway licensed vehicles and ATV/UTV use only on designated routes (including potential routes and route construction proposals) identified on the Proposed Action Map in Appendix I.

This decision will allow highway licensed motorcycles (e.g. dual sport motorcycles) and off highway licensed All-Terrain Vehicles (ATVs) and Recreation Off-Highway Vehicles (ROVs) as defined by the California Vehicle Code (CVC 111 and CVC 500) on routes/trails at CCMA outside the Serpentine ACEC but prohibit off-highway licensed motorcycles (OHMs) from those same routes/trails.

Dual sport motorcycles have a similar wheelbase, tire surface and engine capacity to OHMs. ATVs and ROVs, which are to be allowed on Clear Creek routes/trails, require highway licensed tow vehicles to provide transport to the BLM facility, and sufficient areas to park and unload. Given the wider wheelbase associated with ATVs and ROVs, a wider larger unloading area and associated route system will be needed as compared with that off OHMs. OHMs would certainly be able to utilize the same parking/unloading areas and routes/trails of the larger ATVs and ROVs.

This decision to allow dual sport motorcycles and ATVs/ROVs but prohibit OHMs is inconsistent with OHV management practices employed by the BLM statewide and appears to be an arbitrary and unreasonable decision. The OHMVR Commission appeals this Implementation Decision and requests that OHMs be included along with ATVs and ROVs as allowed vehicles.

Additionally, The OHMVR Commission appeals the following Decisions from the CCMA ROD.

2.

REC-USE-D4. Land Use Plan Decision: Manage the Condon Zone with an emphasis on enhancing hunting opportunity and other non-motorized recreation opportunities, while providing for limited motorized opportunities.

REC-USE-E1. Implementation Decision: Provide motorized access on designated routes in the Serpentine ACEC for highway-licensed vehicles only.

REC-USE-E3. Land Use Plan Decision: Manage the Tucker and Cantua Zones with an emphasis on enhancing hunting opportunity and providing access for other non-motorized recreation opportunities.

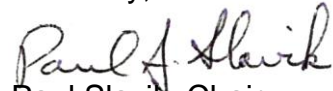
REC-USE-E4. Implementation Decision: Improve access and enhance facilities (i.e. trails, designated camp sites, staging areas) to support non-motorized recreation opportunities in the Cantua Zone.

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These decisions, taken as a whole, systematically eliminate or ignore opportunity for OHM recreation, the segment of the outdoor recreation community suffering the most from loss of opportunity in the Serpentine ACEC portion of CCMA. These decisions appear to be contrary to the BLM's multiple-use mission. The OHMVR Commission appeals these Decisions and requests that opportunities for OHM recreation at CCMA, outside the Serpentine ACEC, be improved and enhanced along with the other outdoor recreation options identified in these decisions.

Thank you for the opportunity to file this appeal.

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul Slavik", written in a cursive style.

Paul Slavik, Chair
OHMVR Commission

cc: Major General Anthony L. Jackson, USMC (Ret) Director
Christopher Conlin, OHMVR Division Deputy Director

Attachments



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September 22, 2015

The Honorable Rob Bishop, Chairman
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Email: jason.knox@mail.house.gov

VIA EMAIL AND MAIL

Subject: Request for Hearing on H.R. 1838

Dear Chairman Bishop:

Please accept this request for a hearing from the San Benito County Board of Supervisors ("County") in regards to H.R. 1838, the Clear Creek National Recreation Area and Conservation Act.

The County believes this bipartisan land-use legislation will benefit both motorized and non-motorized recreation on a regional basis, and will help restore an important economic driver in our local community.

Portions of the Clear Creek Management Area were closed in 2008 based on questionable rationale related to exposure to asbestos. During the closure period the California Off-Highway Motor Vehicle Recreation (OHMVR) Commission hired an independent science firm to perform a risk assessment study which concluded that management prescriptions could be implemented to allow off-highway vehicle use without exposing the public to unacceptable risks. According to a recent report given to the OHMVR Commission on May 29, 2015, more recent independent studies conducted in 2013 and 2014 by the International Environmental Research Foundation will be released at the end of this year. This new information could provide further insight on possible management prescriptions for the area.

We urge you to move H.R. 1838 through the hearing process.

Respectfully,

Margie Barrios, Chair
San Benito County Board of Supervisors
cc: Congressman Sam Farr
Congressman David Valadao
Congressman Jeff Denham